



California Retailers and Youth Tobacco Laws

A training presentation by the California Department of
Public Health Tobacco Control Section
and Food and Drug Branch



Training Goals

This training will help you learn about:

- Current tobacco laws that restrict sales to minors
- New licensing laws
- How to comply with the laws
- How to avoid fines
- Available resources and information



Disclaimer

- This training is for informational and educational purposes only
- It is your responsibility to know and comply with California tobacco laws
- Viewing this training session and adopting the recommended policies does not constitute compliance with the laws and is not a defense if you or your employees are cited for violating Penal Code 308(a) or the Stop Tobacco Access to Kids Enforcement (STAKE) Act (Business and Professions Code 22950-22963)



Presentation Roadmap

- Facts about youth tobacco use and purchase
- Overview of California tobacco laws and enforcement of these laws
- How to stop sales to minors
 - Tips for owners and managers
 - Guide for clerks



Section 1

Youth tobacco use and
purchasing practices



Facts about Youth Tobacco Use

- More than 43,000 Californians die every year from tobacco use*
- About 75% of California smokers started smoking before age 18**
- The younger a person is when they start to smoke, the harder it is for him or her to quit***

* Max W, Rice DP, Zhang X, Sung H-Y, Miller L. *The of Cost of Smoking in California, 1999*. Sacramento, CA: California Department of Health Services, 2002.

** 2002 California Tobacco Survey.

***U.S. Department of Health and Human Services. *Preventing Tobacco Use Among Young People: A Report of the Surgeon General*. Atlanta, Georgia: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 1994.



Tobacco Sales to Teens

- Surveys show that teens were sold tobacco between 8% and 19% of the times they tried to buy it. These rates vary by store type and geographic location*
- 60% of teens who smoke daily say it's easy to buy cigarettes**

• *California Youth Tobacco Purchase Surveys, 2001-2009*

**Gilpin EA, et al. *Tobacco Control Successes in California: A Focus on Young People, Results from the California Tobacco Surveys, 1990-2002*. La Jolla, CA: University of California, San Diego; 2004.



Where Teens Get Tobacco

High school smokers say they usually get their cigarettes from:

- Someone who buys cigarettes for them (e.g., shoulder tapping)
- Someone who gives cigarettes to them (e.g., family and friends)
- A retailer who sells cigarettes to them



Where Teens Buy Tobacco

Teen smokers say they buy cigarettes at:*



- Liquor stores (71%)
- Gas stations (58%)
- Small grocery stores (51%)
- Convenience stores (49%)

* Klonoff, EA. "More Than You Ever Wanted to Know about Conducting a Youth Tobacco Purchase Survey." *Tobacco Youth Purchase Survey Training*, Sacramento California, September 8, 2003.

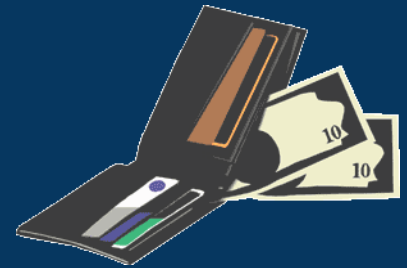


How Teens Manage to Buy Cigarettes

Teens said the easiest way to buy cigarettes was to go to a clerk they knew.*

They also:

- Buy in their neighborhood stores
- Lie about their age
- Buy non-tobacco items at the same time
- Say the cigarettes are for an adult
- Use a fake ID



* Klonoff, EA & Landrine H. "The Role of Youth Versus Store-clerk Behavior and Issues of Ecological Validity." *Health Psychology*, September 2004, 23(5): 517-524.



Section 2

California tobacco sales laws
and their enforcement



Tobacco Laws: What You Need to Know

- You are required to know the laws and make sure that none of your employees sell tobacco to minors
- You and the employee face fines if the law is broken
- Tobacco laws are actively enforced
- You can help minors avoid tobacco addiction and health problems by following the law



Tobacco Laws that Affect Retailers

Sales of tobacco products to minors are prohibited by:

- Penal Code 308(a)
- STAKE Act, Business and Professions Code Section 22950-22963
- The federal Family Smoking Prevention and Tobacco Control Act





Penal Code 308(a)

Prohibits a person or business from knowingly selling, giving, or furnishing any tobacco, cigarettes, cigarette papers/paraphernalia, or other preparation of tobacco to a minor (person under 18 years).

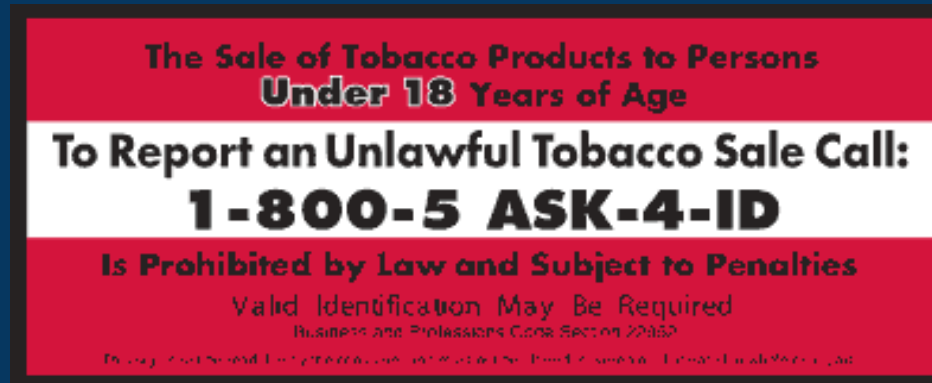
Violators (store owners, managers, and/or clerks) are subject to criminal action for a misdemeanor or civil action punishable by criminal fines ranging from \$200 to \$1,000.





The STAKE Act

- Prohibits the sale of tobacco products to minors
- Requires sellers to check the ID of anyone appearing to be under age 18
- Requires age-of-sale warning signs with the 1-800-5 ASK-4-ID to be posted conspicuously at each point of purchase





Avoid STAKE Act Fines!

Under the STAKE Act, the store owner pays the fine, even if the employee makes the sale.

Penalties for a tobacco sale to a minor range from \$400 to \$6,000.

Penalties for not posting the STAKE Act age-of-sale warning sign range from \$200 to \$500.





Warning: Tobacco Laws Are Being Enforced



- California Department of Public Health Food and Drug Branch investigators enforce the STAKE Act using youth decoys
 - **Since 1995, more than 9,284 stores sold tobacco to minors in STAKE decoy operations and paid more than \$3,355,255 in fines**
- California Alcoholic Beverage Control investigators inspect alcohol licensees for required tobacco age-of-sale warning signs
- Local police actively enforce Penal Code 308(a) using youth decoys. The person selling tobacco to a minor is cited for a misdemeanor and pays the fine, and the owner may also be cited



License Requirements

- All tobacco retailers must be licensed annually by the California Board of Equalization
- Retailers must display their licenses so that they are visible to the public
- Retailers can only purchase tobacco products from a licensed wholesaler, distributor, or importer



What If You Don't Comply?

Penalties for noncompliance with the license requirement may result in a fine of up to \$5,000, imprisonment up to one year, or both.

Failure to post the license may result in a \$500 penalty.



Who Performs the Inspection?

California Board of Equalization investigators and local law enforcement officers inspect tobacco retailers for compliance with tobacco licensing and other tobacco laws.



Other Tobacco Laws Affecting Retailers

- Sales of bidi cigarettes are prohibited
- Sales of single cigarettes are prohibited
- Free samples of tobacco products are prohibited
- Self-service displays of all tobacco products and paraphernalia are prohibited
- Sales of flavored cigarettes and tobacco paraphernalia (other than menthol) are prohibited

For more detailed information about these laws, see www.leginfo.ca.gov/calaw.html and www.fda.gov/breakthechain



Section 3

Strategies for owners and managers to avoid tobacco sales to minors in your store



How to Comply With the Laws

- Educate yourself about the laws and penalties
- Develop and follow store policies
- Train and monitor your clerks
- Put up reminder posters
- Obtain and display your tobacco license



Stopping tobacco sales to minors depends on commitment and action by you and your employees.



Develop Store Policies

- Require your employees to ask for valid government-issued photo ID and to check the age of anyone who looks younger than age 27
- Develop a written company policy that employees must read and sign
- Train your employees regularly and review the laws





Follow Store Policies

- Emphasize to employees that checking IDs is important — no matter how many people are in line
- Remind your employees that state and local enforcement agencies conduct tobacco compliance checks
- Caution employees that store owners and clerks may be cited, which may result in a fine and criminal record



Train Your Clerks

- To ask for ID from anyone who looks younger than age 27
- To accept only valid government-issued IDs
- To CHECK the age on the ID and confirm the customer is over age 18
- How to refuse a sale

IMPORTANT: Include time for clerks to practice calculating the age and ways to refuse a sale.



Use Reminders and Other Aids

- Display the “Warning: Selling tobacco to kids could cost you” and “Can he buy cigarettes?” posters where employees will **read them**
- Place calendars and other age-of-sale reminders by all registers. Many types of calendars are available, including decals, daily paper, and electronic calendars
- Use register screen pop-ups as reminders to check age
- Install electronic scanning devices or other age verification devices, and teach employees how to use them and NOT to override them!





Monitor Your Clerks

- Observe your clerks and give prompt feedback on what they are doing right and what they are doing wrong
- Conduct periodic secret shopper programs to check on your store's compliance
- Follow through with rewards and consequences





Points to Remember

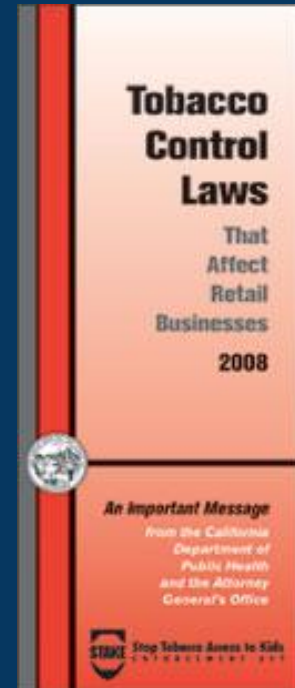
- You are responsible for knowing and making sure your employees follow the laws
- Tobacco laws for minors are being enforced
- Make sure your employees are trained and monitored to help avoid illegal sales and fines

Thank you for doing your part!



Where to Get Signs and Tobacco Retail Information

- To obtain **FREE** clerk education posters, STAKE Act signs, the “Tobacco Control Laws That Affect Retail Business” brochure, and the retailer information kit “Avoiding Fines and Penalties When Selling Tobacco,” call the Tobacco Education Clearinghouse of California at **1-800-258-9090 ext. 230 or ext. 103**
- For information on retail sales, call the STAKE Act hotline: **1-800-5 ASK-4-ID**
- For information about the licensing law, call the Board of Equalization at **800-400-7115** or visit their website at **www.boe.ca.gov**





Where Can Owners and Managers Get Free Training?

- The Board of Equalization (BOE) offers the free, interactive class “Selling Cigarettes and Tobacco in CA” to tobacco retailers
- For more information, go to:
<http://www.boe.ca.gov/sutax/cigtobclass.htm>
- You’ll learn:
 - Who must be licensed
 - What brands can be sold in CA
 - When flavored cigarettes became illegal
 - What to expect during an inspection
 - What records to maintain
 - How to avoid fines and penalties
 - And much more!



Section 4

Guide for clerks on how to
comply with tobacco sales
laws



Guide for Clerks

Always follow these steps before selling tobacco products:

- Ask for ID from anyone who looks younger than age 27
- Accept only valid government-issued IDs
- CHECK the age on the ID to confirm the customer is over age 18



Ask for ID – Look for Fakes

■ Look for these clues:

- Has the ID expired?
- Does the photo match the person?
- Does the ID look altered?
- IDs with holes, glue lines, bumpy surfaces, or other signs of tampering should not be accepted



■ IMPORTANT: If you're not sure the ID is valid, refuse the sale.



How to Check Age

The easiest way to check a person's age is to ask for and check their California driver license or California ID.

Customers must be:
18 to buy tobacco, **21** to buy alcohol.

The blue strip tells you when they will be **18**

The red strip tells you when they will be **21**

Date of Birth

A sample California Driver License for Elijah Zachary Rostor. The license includes fields for CLASS (C), LICENSE NUMBER (D9962962), EXPIRES (12-20-07), NAME (ELIJAH ZACHARY ROSTOR), ADDRESS (6055 NIXTON DR, FELTON CA 95016), SEX (M), HT (5-07), HAIR (BRN), WT (150), EYES (BLU), DOB (12-20-84), and a signature. It also features a blue strip indicating the date they will be 18 (11/06/2000) and a red strip indicating the date they will be 21 (06/30/10/03). A green arrow points to the DOB field, labeled "Date of Birth".

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Checking Age with a California Driver's License

- Standard driver licenses show the DOB in red
- These licenses should be available only to drivers 21 and over



TACTILE, LASER ENGRAVED SIGNATURE
The cardholder's signature is engraved with raised lettering that can be felt by touch.

CALIFORNIA BROWN BEAR
Outline is visible when a flashlight is pressed against back of card.
COLOR UV IMAGES
Image is visible only under ultraviolet light.



New Provisional Licenses

- New provisional licenses issued in 2010
- These licenses are vertical to help retailers know when a person is younger than 21
- A blue strip also tells you when the person turns 18

NEW PROVISIONAL AND UNDER 21 CARDS

NEW FORMAT
Driver license and Identification cards for persons under age 21 are vertical to aid retailers and law enforcement in identifying the age of the cardholder.

CALIFORNIA
DRIVER LICENSE

DL 11234563
EXP 08/31/2015
DOB 08/31/1993
AGE 21 IN 2014
PROVISIONAL UNTIL AGE 18 IN 2011
CLASS C
END NONE
RSTR NONE

LN SAMPLE
FN SUZY Q.
2570 24TH STREET
SACRAMENTO, CA 95818
SEX F
HAIR BRN EYES BLU
HGT 5'-05" WGT 125 lb
ISS 09/30/2010

NAME FORMAT, ALL CARDS
There are two lines allotted for your name. Last name will be displayed on the first line. Second line will show the first and middle name. This change improves naming conventions and identification of the cardholder.



Checking Age with a Provisional California Driver's License

- A blue strip means the person is not 18 until the year printed in the strip
- If the year in the **blue** strip is the SAME as the current year, **look at their birthday** to see if they have turned 18

Customers must be:
18 to buy tobacco, **21** to buy alcohol.

The diagram shows a California Driver's License for ELLIJAH ZACHARY ROSTAR. The license includes a photo, a signature, and various fields: CLASS: C, DRIVER LICENSE, 09962962, EXPIRES: 02-20-07, SEX: M, HAIR: BRN, EYES: BLU, HT: 5-07, WT: 150, DOB: 11-10-84. A blue strip at the bottom reads "PROVISIONAL UNTIL AGE 18 IN 2004". A red strip below that reads "AGE 21 IN 2007". Annotations include: "The blue strip tells you when they will be 18" with a blue arrow pointing to the blue strip; "The red strip tells you when they will be 21" with a red arrow pointing to the red strip; and "Date of Birth" with a green arrow pointing to the DOB field.

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Checking Age with a Provisional California Driver's License



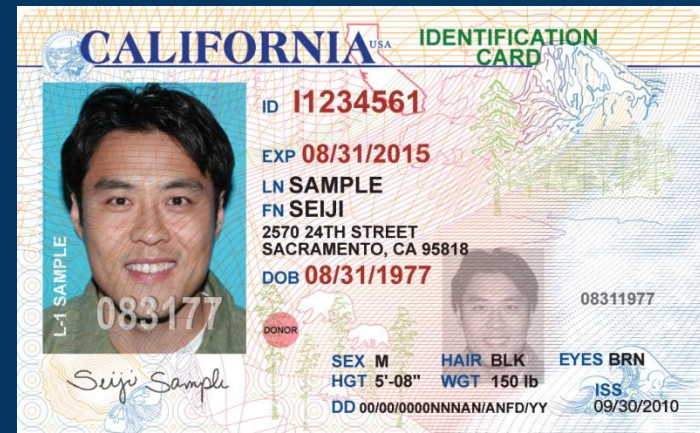
- If the year in the **blue** strip is later (higher) than the current year, **do not sell them tobacco**
- **Do not sell them tobacco until you confirm how old they are!**



How to Check Age with a California ID Card

A customer may hand you a California ID card when you ask for ID.

- California ID cards may look similar to California driver licenses
- **CAUTION:** some California ID cards may not have a blue strip
- California ID cards must be checked for age





How to Calculate the Age of a Customer

- Here's a fast way to check if a person is at least 18 — Just remember “minus 20, plus 2”:

Here's how it works:

- Write down today's date: **March 25, 2011**
- Subtract 20 from the year:
$$\begin{array}{r} \text{March 25, 2011} \\ - 20 \\ \hline \text{March 25, 1991} \end{array}$$
- Then add 2:
$$\begin{array}{r} \text{March 25, 1991} \\ + 2 \\ \hline \text{March 25, 1993} \end{array}$$

- In this example, if the person's birthday is on or before March 25, 1993, it's okay to sell them tobacco. If the person's birthday is later than March 25, 1993, it's NOT okay to sell them tobacco



Common Mistakes

- Not asking for an ID
- Asking for ID and then not checking the age

Don't make a sale UNTIL you ask for and check the ID of anyone who appears to be younger than age 27, even if it is a friend or regular customer!



Common Mistakes

- Accepting ID that is not a valid government-issued photo ID
- Overriding the computerized system for someone who appears younger than age 27

Follow the rules and the store policy. Only accept a valid ID. NEVER override the computerized system for someone who appears younger than age 27.



Refusing a Sale: What to Say

- “I’m sorry. It’s against the law.”
- “I’m sorry. I can’t sell tobacco without a picture ID.”
- “I’m sorry. It’s store policy to check ID’s.”
- “I could be fined if I break the law.”

“I’m sorry. I could lose my job for selling to a minor.”





Refusing a Sale to a Friend Under 18

- It's especially hard to tell a friend who is under 18 that you aren't able to sell tobacco to them, but it's important
- **Here is what to do:**
Using a friendly tone, tell your friend, "I'm sorry. It's against the law. I could be fined and even lose my job if I sell to you."



Refusing a Sale: What to Do

- After politely refusing the sale, remain calm
- If a customer insists or becomes argumentative, contact your supervisor
- If the customer takes the product, leaves money, and runs away, DO NOT RING UP THE SALE. Treat it as a theft and report the incident



Role Playing Scenario

It's important to practice refusing a sale.
Practice with another clerk or the manager.
Here are two scenarios:

- An adult under 27 attempts to buy cigarettes. You ask for ID, and the person becomes upset. What do you do and say?
- An underage friend asks you for cigarettes. How do you refuse the sale?





Do Your Part!

Stopping tobacco sales to minors depends on commitment and action by employers and employees.

By working together, you can avoid illegal tobacco sales to minors in your store.



Clerk Quiz

Name: _____ Date: _____

Circle One ➡ Pre-Training Quiz Post-Training Quiz

1. The legal age to purchase tobacco products is

☐ 16

☐ 18

☐ 19

☐ 21

2. The following types of ID can be used to confirm a shopper's age (check all that apply):

☐ a passport

☐ a school ID (as long as it has birth date and a photo)

☐ a California driver's license

☐ a California ID

☐ a driver's license from another state or country

3. If a customer looks like he or she is over 21, I don't need to ask for an ID:

☐ true

☐ false

4. If I sell cigarettes to a minor

☐ I can be fined.

☐ My employer can be fined.

☐ My employer may be at risk for suspension or revocation of his retailer license to sell cigarettes and tobacco products.

5. Pretend that today is April 15, 2007. A customer asks for a pack of cigarettes and gives you a California driver's license after you ask for ID. The customer's birth date is November 28, 1989. Can you legally sell cigarettes to this customer?

☐ yes

☐ no

**Dear Retailer:**

The training presentation, *Stop Tobacco Sales to Youth: California Retailers and Youth Tobacco Laws*, was designed as a self-education tool for use by retailers and their employees. It provides information about California tobacco control laws, tips on preventing tobacco sales to minors, resources for additional educational material, and resources about state tobacco control laws.

Before you train your clerks, it is a good idea to find out what they know about preventing a tobacco sale to a minor. It is also smart to check what they learned after you have trained them. A short quiz is provided for you to print and duplicate. Providing the quiz prior to and after the training will help you assess how well your clerks understood the training material and whether they have the skills necessary to verify the age of a customer. Please review the post training quiz results and provide your clerks with additional practice with age verification if indicated.

Correct answers to the *Stop Tobacco Sales to Youth Clerk Quiz*

1. The legal age to purchase tobacco products in California is 18.
2. The only form of ID on this list that is NOT valid is a school ID.
3. The correct answer is "False." All customers who appear to be younger than 27 should be asked for ID.
4. All answers are correct.
5. The correct answer is "No." Calculating a person's age is not easy. Be sure to give your clerks plenty of practice. Also, it is recommended that you provide some type of age verification device at every register. Possibilities include simple decals, electronic calendars, scanning devices, or age verification devices that can also be used in conjunction with credit cards.